

AMENDED IN SENATE APRIL 14, 2015

SENATE BILL

No. 332

Introduced by Senator Block
(Coauthors: Senators Anderson and Stone)

February 23, 2015

An act to amend ~~Section~~ *Sections 11165.9 and 11169* of the Penal Code, relating to child abuse reporting.

LEGISLATIVE COUNSEL'S DIGEST

SB 332, as amended, Block. Child abuse reporting.

Existing law requires a mandated reporter, as defined, to report *known or suspected* child abuse or neglect to a police department or sheriff's department, not including a school district police or security department, a county probation department, if designated by the county to receive mandated reports, or the county welfare department. *Existing law requires those agencies, except for a police department or sheriff's department, to forward to the Department of Justice, as specified, a written report of a case of child abuse or severe neglect that the agency investigates and determines is substantiated.*

This bill would additionally authorize a mandated reporter to make those reports to a school district police department. *This bill would except a school district police department from the requirement to forward a substantiated report to the Department of Justice.*

By imposing additional duties on a school district, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11165.9 of the Penal Code is amended
2 to read:
3 11165.9. (a) Reports of suspected child abuse or neglect shall
4 be made by mandated reporters, or in the case of reports pursuant
5 to Section 11166.05, may be made, to any of the following:
6 (1) A police department.
7 (2) A sheriff's department.
8 (3) A school district police department, not including a school
9 district security department.
10 (4) A county probation department, if designated by the county
11 to receive mandated reports.
12 (5) The county welfare department.
13 (b) Any of those agencies shall accept a report of suspected
14 child abuse or neglect whether offered by a mandated reporter or
15 another person, or referred by another agency, even if the agency
16 to whom the report is being made lacks subject matter or
17 geographical jurisdiction to investigate the reported case, unless
18 the agency can immediately electronically transfer the call to an
19 agency with proper jurisdiction. When an agency takes a report
20 about a case of suspected child abuse or neglect in which that
21 agency lacks jurisdiction, the agency shall immediately refer the
22 case by telephone, fax, or electronic transmission to an agency
23 with proper jurisdiction.
24 (c) Agencies that are required to receive reports of suspected
25 child abuse or neglect may not refuse to accept a report of
26 suspected child abuse or neglect from a mandated reporter or
27 another person unless otherwise authorized pursuant to this section,
28 and shall maintain a record of all reports received.
29 SEC. 2. Section 11169 of the Penal Code is amended to read:
30 11169. (a) An agency specified in Section 11165.9 shall
31 forward to the Department of Justice a report in writing of every

case it investigates of known or suspected child abuse or severe neglect that is determined to be substantiated, other than cases coming within subdivision (b) of Section 11165.2. An agency shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the report is substantiated, as defined in Section 11165.12. If a report has previously been filed which subsequently proves to be not substantiated, the Department of Justice shall be notified in writing of that fact and shall not retain the report. The reports required by this section shall be in a form approved by the Department of Justice and may be sent by fax or electronic transmission. An agency specified in Section 11165.9 receiving a written report from another agency specified in Section 11165.9 shall not send that report to the Department of Justice.

~~(b) On and after January 1, 2012, a police department or sheriff's department specified in Section 11165.9 shall no longer forward to the Department of Justice a report in writing of any case it investigates of known or suspected child abuse or severe neglect.~~

(b) The requirements of subdivision (a) do not apply to a police department, sheriff's department, or school district police department.

(c) At the time an agency specified in Section 11165.9 forwards a report in writing to the Department of Justice pursuant to subdivision (a), the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index (CACI). The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative.

(d) Subject to subdivision (e), any person who is listed on the CACI has the right to a hearing before the agency that requested his or her inclusion in the CACI to challenge his or her listing on the CACI. The hearing shall satisfy due process requirements. It is the intent of the Legislature that the hearing provided for by this subdivision shall not be construed to be inconsistent with hearing proceedings available to persons who have been listed on the CACI prior to the enactment of the act that added this subdivision.

(e) A hearing requested pursuant to subdivision (d) shall be denied when a court of competent jurisdiction has determined that

1 suspected child abuse or neglect has occurred, or when the
2 allegation of child abuse or neglect resulting in the referral to the
3 CACI is pending before the court. A person who is listed on the
4 CACI and has been denied a hearing pursuant to this subdivision
5 has a right to a hearing pursuant to subdivision (d) only if the
6 court's jurisdiction has terminated, the court has not made a finding
7 concerning whether the suspected child abuse or neglect was
8 substantiated, and a hearing has not previously been provided to
9 the listed person pursuant to subdivision (d).

10 (f) Any person listed in the CACI who has reached 100 years
11 of age shall have his or her listing removed from the CACI.

12 (g) Any person listed in the CACI as of January 1, 2013, who
13 was listed prior to reaching 18 years of age, and who is listed once
14 in CACI with no subsequent listings, shall be removed from the
15 CACI 10 years from the date of the incident resulting in the CACI
16 listing.

17 (h) If, after a hearing pursuant to subdivision (d) or a court
18 proceeding described in subdivision (e), it is determined the
19 person's CACI listing was based on a report that was not
20 substantiated, the agency shall notify the Department of Justice of
21 that result and the department shall remove that person's name
22 from the CACI.

23 (i) Agencies, including police departments and sheriff's
24 departments, shall retain child abuse or neglect investigative reports
25 that result or resulted in a report filed with the Department of
26 Justice pursuant to subdivision (a) for the same period of time that
27 the information is required to be maintained on the CACI pursuant
28 to this section and subdivision (a) of Section 11170. Nothing in
29 this section precludes an agency from retaining the reports for a
30 longer period of time if required by law.

31 (j) The immunity provisions of Section 11172 shall not apply
32 to the submission of a report by an agency pursuant to this section.
33 However, nothing in this section shall be construed to alter or
34 diminish any other immunity provisions of state or federal law.

35 ~~SEC. 2.~~

36 *SEC. 3.* If the Commission on State Mandates determines that
37 this act contains costs mandated by the state, reimbursement to
38 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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